

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3

4 ARMANDO VILLANUEVA and )  
5 HORTENCIA SAINZ, individually )  
and as successor in interest to )  
6 Pedro Villanueva, deceased; and )  
FRANCISCO OROZCO, individually, ) CASE NO.  
7 ) 8:17-cv-01302-JLS (KESx)  
Plaintiffs, )  
8 )  
vs. )  
9 )  
STATE OF CALIFORNIA; JON )  
10 CLEVELAND; RICH HENDERSON; and )  
DOES 1-10, inclusive, )  
11 )  
Defendants. )  
12 \_\_\_\_\_ )  
13  
14  
15  
16

17 VIDEOTAPED DEPOSITION OF RICHARD HENDERSON

18 BEVERLY HILLS, CALIFORNIA

19 FRIDAY, OCTOBER 20, 2017  
20  
21  
22  
23

24 SUMMER JIMENEZ  
RPR, CSR 12917  
25

1 direction of anyone before the date of this incident?

2 A. Yes, sir.

3 Q. On how many occasions would you say?

4 A. I would have to think for probably several hours

04:50PM 5 to be able to answer that accurately, sir.

6 Q. Would it be a lot of times?

7 A. More than 12.

8 Q. Okay. Were you trained that you can shoot

9 someone merely because a vehicle was moving in the

04:50PM 10 direction of a person?

11 A. No, sir.

12 Q. In this case did you fire any shots?

13 A. Yes, sir.

14 Q. How many shots did you fire?

04:50PM 15 A. 12.

16 Q. What type of weapon did you have?

17 A. A Smith & Wesson 4006 TSW.

18 Q. Okay.

19 A. Pistol, semiautomatic pistol, 40 caliber.

04:51PM 20 Q. Okay. Do you have to press the trigger for each  
21 shot?

22 A. Yes.

23 Q. And so in this incident, did you press the  
24 trigger 12 times?

04:51PM 25 A. Yes, sir.

1 A. That's correct. We were trained specifically not  
2 to shoot at tires.

3 Q. Right. And then what part of the truck were you  
4 shooting through, if you know, when you were firing these  
04:52PM 5 shots?

6 A. The windshield.

7 Q. The front windshield?

8 A. That was what I was aiming for. Yes, sir.

9 Q. Do you know if any of your shots went through the  
04:52PM 10 driver's side window?

11 A. I do not.

12 Q. Do you know if any of your shots exited through  
13 the passenger side window?

14 A. I do not.

04:52PM 15 Q. How close was the truck to you when you started  
16 firing?

17 A. I would have to estimate that.

18 Q. What would be your estimate?

19 A. 20 to 25 feet.

04:52PM 20 Q. Okay. And how close was the truck to you at the  
21 time of your last shot?

22 A. 10 feet. 10 to 12 feet.

23 Q. Did you complete all your shots before the truck  
24 impacted your unit?

04:53PM 25 A. Yes.

1 Q. And how much time would you say passed from the  
2 completion of your last shot to the time the truck struck  
3 your unit?

4 A. A matter of seconds. I don't -- I don't know  
04:53PM 5 exactly, sir.

6 Q. Can you give an estimate as to how many seconds  
7 after your last shot? In other words, was it -- you could  
8 give a range, if you want. One to two? Two to three  
9 seconds? Whatever you feel comfortable with.

04:53PM 10 A. One to five seconds.

11 Q. Okay. So would it be correct to say that you  
12 fired all your shots before the truck impacted your  
13 vehicle and the truck impacted your vehicle approximately  
14 one to five seconds after you fired your last shot?

04:53PM 15 A. I would say that's possible.

16 Q. Okay. Where were you standing when you fired the  
17 first shot?

18 A. I was standing behind the open passenger door on  
19 the right side of the black Ford Taurus and what we would  
04:54PM 20 refer to as the V of the door meaning where the passenger  
21 window comes down and meets basically the door hinge.

22 Q. And were you standing there essentially for all  
23 your shots?

24 A. Yes.

04:54PM 25 Q. At any point in time, did you hear any shots

1 before it started backing up?

2 A. Yes, I do.

3 Q. And what's your recollection in that regard?

4 A. I gave specific commands to the driver of the  
05:15PM 5 vehicle.

6 Q. To the -- to the -- towards the vehicle?

7 A. Yes.

8 Q. This would be before it started backing you?

9 A. Yes.

05:16PM 10 Q. Okay. What did you say?

11 A. I said -- pardon my language here. I said,  
12 "Stop. Police. Show me your fucking hands."

13 Q. Okay. It's okay. We've all heard those words  
14 before. Okay. Were you in the V of your vehicle when you  
05:16PM 15 said that?

16 A. Yes.

17 Q. Okay. And then did the truck almost start  
18 backing up immediately?

19 A. Yes.

05:16PM 20 Q. Okay. Now, in Exhibit 6, which we'll attach the  
21 same exhibit to this deposition, your partner kind of drew  
22 a red dash line towards the vehicle that he believed the  
23 truck backed into, and it looks like it's a dark-colored  
24 vehicle. I can't tell if it's black or not. It looks  
05:16PM 25 black to me, but I'm getting color blind.

1 it --

2 A. My apologies.

3 Q. That's okay.

4 A. I remember it specifically being open.

05:21PM 5 Q. I just want to be clear on that. Okay. Thank  
6 you. Now, the -- I think you've already indicated that  
7 you fired all 12 shots. Well, let me ask you this: Did  
8 you fire any shots while the vehicle was going backwards?

9 A. No.

05:21PM 10 Q. Did you fire any shots before the vehicle  
11 impacted the parked car on the street?

12 A. No.

13 Q. Did you start firing after the truck started  
14 moving forward? At some point after it started moving  
05:21PM 15 forward.

16 A. Yes.

17 Q. Okay. Do you know how far the truck moved  
18 forward prior to you firing your first shot?

19 A. I do not.

05:21PM 20 Q. Do you have any estimate?

21 A. It would be a broad range.

22 Q. What broad range would you be comfortable with?

23 A. I would say 15 to 30 feet forward.

24 Q. Okay. Do you have a -- so when you say 15 to  
05:22PM 25 30 feet forward, you mean forward from its position where

1 A. Yes.

2 Q. And you were trying to strike the driver during  
3 the shots.

4 A. Yes.

05:29PM 5 Q. Would it be correct to say that during the shots,  
6 you weren't looking where your partner was? Would that be  
7 correct?

8 A. Yes.

9 Q. And is it correct that you don't know where he  
05:30PM 10 was during the shots because you weren't looking at him,  
11 you were looking at the truck during the shots?

12 A. Yes.

13 I'm sorry.

14 MS. DEAN: Belated objection. Misstates the  
05:30PM 15 testimony.

16 BY MR. GALIPO:

17 Q. Okay. After the shots, did you -- your partner  
18 at some point indicated he was on the sidewalk. He put an  
19 X on the sidewalk on the other side. I guess that would  
05:30PM 20 be the west side of the street. Did you ever see your  
21 partner there after the shots?

22 A. No.

23 Q. Where did you see him after the shots, if you  
24 recall?

05:30PM 25 A. I recall him coming up on my left side as I was

1 hypothetical -- were you trained not to shoot as long as  
2 your partner's not in the path of the vehicle and you're  
3 able to see that?

05:39PM 4 A. We were trained not to shoot if there was not a  
5 threat, a direct threat, to our partner, ourselves, or  
6 another citizen.

7 Q. Okay. And the direct threat in terms of a moving  
8 vehicle would be someone being hit by the car.

9 A. Yes.

05:39PM 10 Q. Okay. If hypothetically -- again, I'm giving you  
11 another hypothetically -- you knew that your partner was  
12 out of the path of the vehicle, would you have shot if you  
13 had known that?

14 A. Are you asking me if I knew for a fact that my  
05:40PM 15 partner was not in jeopardy and not in the threat of a  
16 moving vehicle that was accelerating towards him if I  
17 would have fired my weapon?

18 Q. That's my question.

19 A. No, I would not have.

05:40PM 20 Q. And why not based on your training?

21 A. Because it's immoral, illegal, and against  
22 policy.

23 Q. Okay. Based on your training -- I think you've  
24 already answered this -- if a vehicle was moving in your  
05:40PM 25 direction, would you try to get out of the way if you



1 could?

2 A. If I could, yes.

3 Q. Now, you have indicated that you essentially  
4 learned the same position for all 12 shots; is that  
05:41PM 5 correct?

6 A. Yes.

7 Q. Did you feel you needed to move when the -- when  
8 the truck was -- was moving forward? Did you yourself  
9 feel you had to move?

05:41PM 10 A. At the time, no.

11 Q. Okay. If I understand -- and I read your  
12 statement -- you were shooting in essence to protect your  
13 partner.

14 A. Yes.

05:41PM 15 Q. Okay. Were you shooting because you thought the  
16 truck was going to run you over?

17 A. No.

18 Q. Okay. The concern you had was for your partner.

19 A. Yes.

05:41PM 20 Q. Okay. Other than your partner, did you see  
21 anybody else out there like any other civilians or  
22 pedestrians out on the street at the time of the shooting?

23 A. Not that I specifically recall.

24 Q. Now, you indicated that you gave an initial

05:41PM 25 command to the truck when you got out of your vehicle; is

1 that correct?

2 A. Yes.

3 Q. I take it that would be just before or as the  
4 truck started backing up.

05:42PM

5 A. Right prior to it backing up.

6 Q. Okay. Did you say anything else between that  
7 time and the time that you fired your first shot?

8 A. No.

9 Q. Okay. Did you say anything during your shots?

05:42PM

10 A. No.

11 Q. Do you know where your partner was specifically  
12 when he fired his shots?

13 A. No, I do not.

14 Q. Did you see muzzle flash or how did you know that  
15 he had fired? Just because you heard a couple shots  
16 coming from your left?

05:42PM

17 A. I heard two shots from my left. Yes.

18 Q. Okay. Did you hear anything that indicated to  
19 you that any of your shots had struck the truck as you  
20 were firing? In other words, glass breaking or anything  
21 like that?

05:42PM

22 A. No.

23 Q. Okay. Have you heard the term "crossfire"  
24 before? Have you heard that term?

05:43PM

25 A. Crossfire?

1 Q. Like, in other words, you have to be aware of  
2 your background so that you don't have a situation where  
3 like your partner for example's in your background when  
4 you're shooting?

05:43PM

5 A. Yes.

6 Q. Okay. I don't know. I've heard the term  
7 crossfire, background, backdrop?

8 A. Yes, sir.

9 Q. Are you familiar with all of those --

05:43PM

10 A. Yes, sir. I'm familiar with all of those.

11 Q. Okay. Are you pretty certain that all of the  
12 shots occurred before the truck impacted your unit?

13 A. Yes.

14 Q. And do you have any estimate as to how far the

05:43PM

15 truck traveled after the shots had concluded but before it  
16 impacted?

17 A. No.

18 Q. Do you have any estimate as to the speed of the  
19 truck at the time of impact?

05:44PM

20 A. At the time of impact? Slowing down. I mean,  
21 that's all I can tell you. It was slowing down.

22 Q. In terms of miles per hour, do you have any  
23 estimate of the speed of the truck at all from the time it  
24 moved forward to the time it stopped at impact?

05:44PM

25 A. Less than 10 miles an hour.

1 whatever it is.

2 A. Yes, sir.

3 Q. Okay. Do you have an estimate as to how many  
4 shots you fired before you heard the two shots fired by  
06:17PM 5 your partner?

6 A. I do not.

7 Q. What did you do immediately after you fired the  
8 shots?

9 A. I reloaded my weapon and reassessed.

06:18PM 10 Q. Okay. And what was your reassessment at that  
11 point?

12 A. At that point the vehicle was slowing down, and  
13 it was coasting to rest against our vehicle, and I had  
14 threats -- I assessed that either the driver had given up  
06:18PM 15 or was incapacitated and was no longer a threat, no longer  
16 an immediate threat.

17 Q. Okay. And then what did you do?

18 A. Sergeant Cleveland came out on my left side. I  
19 asked him if he was okay and if he had reloaded, and then  
06:18PM 20 I said I'm going to put out traffic over the radio.

21 Q. And did you put out traffic?

22 A. Yes, sir.

23 Q. And what was the traffic?

24 A. I said L.A. 743 11-99 shots fired, 4142 for the  
06:18PM 25 suspect, no officers injured. I then grabbed my phone

1 because I was unfamiliar with the area to verify exactly  
2 where we were at so I could give her an accurate location  
3 or 1020 and broadcast at the end of Pritchard facing north  
4 and our weapons were facing north.

06:19PM

5 Q. At some point did you notice there was a  
6 passenger in the front seat?

7 A. Yes.

8 Q. And when did you first notice that?

9 A. After the vehicle had come to rest against our  
10 vehicle.

06:19PM

11 Q. And how did you see that? Just basically looking  
12 and seeing the person sitting there?

13 A. Yes. There was a streetlight that was shining  
14 down into the windshield at that point.

06:19PM

15 Q. Do you think you would have fired the 12 shots if  
16 you had known there was a passenger in the front seat?

17 A. Yes.

18 Q. Did you have any information after the incident  
19 as to whether the passenger was struck by any of the  
20 shots?

06:19PM

21 A. I heard that he was struck. Yes.

22 Q. Did -- were any commands given to the passenger  
23 after the shooting?

24 A. Yes.

06:19PM

25 Q. Was the passenger generally compliant with the

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF LOS ANGELES)

4 I, RICHARD HENDERSON, say I have read the foregoing  
5 deposition and declare under penalty of perjury that my  
6 answers as indicated are true and correct.

7  
8  
9 \_\_\_\_\_  
10 (Date)

11 \_\_\_\_\_  
12 (Signature)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF CALIFORNIA )  
 ) ss.  
2 COUNTY OF LOS ANGELES)

3 I, Summer Jimenez, Certified Shorthand Reporter,  
4 License No. 12917, for the State of California, do hereby  
5 certify:

6 That, prior to being examined, the witness named in  
7 the foregoing deposition, to wit, RICHARD HENDERSON, was  
8 by me duly sworn to testify the truth, the whole truth and  
9 nothing but the truth;

10 That said deposition was taken down by me in shorthand  
11 at the time and place therein named and thereafter reduced  
12 to computer-aided transcription under my direction.

13 That the foregoing transcript, as typed, is a true  
14 record of the said proceedings.

15 I further certify that I am not interested in the  
16 event of the action.

17  
18 WITNESS my hand this \_\_\_\_ day of

19 \_\_\_\_\_, 2017.

20  
21  
22  
23 \_\_\_\_\_  
Summer Jimenez, CSR NO. 12917